



City of Harrisonburg, Virginia

Department of Planning & Community Development

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Building Inspections
Engineering
Planning & Zoning

To: Eric Campbell, City Manager
From: Department of Planning and Community Development
Date: July 9, 2019 (Regular Meeting)
Re: Special Use Permit – 58 Easthampton Court (Short-Term Rental)

Summary:

Public hearing to consider a request from Nicholas and Abigail Einstein for a special use permit per Section 10-3-40(8) of the Zoning Ordinance to allow for a short-term rental within the R-2, Residential District. A short-term rental is defined in the Zoning Ordinance as “[t]he provision of a dwelling unit, a bedroom or accommodation space within the dwelling unit, or any accessory building that is suitable or intended for transient occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy.” Short-term rentals are further regulated by Article DD of the Zoning Ordinance. The +/- 3,920 sq. ft. property is addressed as 58 Easthampton Court and is identified as tax map parcel 10-M-2A.

Background:

The Comprehensive Plan designates this area as Low Density Residential. These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per acre.

The following land uses are located on and adjacent to the property:

Site: Duplex dwelling unit; zoned R-2
North: Multi-family dwelling units; zoned R-3
East: Duplex dwelling unit; zoned R-2
South: Across Easthampton Court, duplex dwelling units; zoned R-2
West: Duplex dwelling unit; zoned R-2

Key Issues:

The applicants are requesting approval of a STR operation at 58 Easthampton Court; which is located in the southwestern section of the City. The subject property is one half of a duplex building that has frontage within a cul-de-sac. The applicants describe the property as their primary residence and desire to rent for STR an open basement accommodation space, which they refer to as an “in-law quarters” and includes a bed and a blow-up mattress, for a maximum of four guests at a time. The accommodation space has access through the home, as well as an exterior separate entrance at the back of the dwelling unit. The applicants do plan to be present during the lodging period.

While the property is only +/- 0.12 miles from Central Avenue, a minor collector street and +/- 0.26 miles from South Avenue, a major collector street, staff believes it is located too interior to the neighborhood. It is unlikely that the cul-de-sac street would have pedestrian and vehicular traffic that is not from relatives or friends of the applicants or neighbors who live on Easthampton Court and their visitors. Staff believes that introducing a STR at this location could create neighborhood instability because STRs introduce high turnover of people who are unknown to the neighbors and could change the character of the neighborhood with increased vehicle trips.

Staff believes that STRs should not negatively impact a community or an individual's quality of life or to an individual's often biggest investment: their home and property. Given the location of the property within this residential area of the City, staff believes a business operation of this nature should not be promoted at this location and further believes that a STR at this location would have adverse effects on other residents in the neighborhood and recommends denial of the special use permit request.

If Planning Commission, however, desires to recommend approval to City Council, staff recommends the following conditions be placed on the SUP:

1. The site shall be the operator's primary residence.
2. An operator shall be present during the lodging period.
3. All STR accommodations shall be within the principle dwelling.
4. There shall be no more than one STR guest rooms or accommodation spaces.
5. The number of guests at one time shall be limited to four.
6. Prior to operation, the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form. Furthermore, the operator shall maintain compliance with the Pre-Operation Form when short-term rental guests are present.
7. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway and parking area on the property.
8. If in the opinion of Planning Commission or City Council, the short-term rental becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Condition #1 helps to prevent the City's housing stock from being purchased by investors and then being reallocated from homeownership and long-term rentals to STRs. Condition #2 protects the neighbors by ensuring that there is on-site accountability with operators being present during the lodging period. Condition #3 prevents the ability for the STR operator to convert or construct an accessory building into space for STR that was not previously vetted for impacts to the surrounding properties. If the applicant later wishes to create living spaces within an accessory building for STR, they must return to Planning Commission (PC) and City Council (CC) with a new SUP request. Condition #4 limits the total number of guest rooms and accommodation spaces on the entire property to one. ("Accommodation spaces" means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) Condition #5 limits the total number of guests to four. Condition #6 requires that prior to beginning operations that the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form and shall maintain compliance with the form when STR guests are present. The form includes a checklist to guide STR operators through a self-inspection of guest rooms and accommodation spaces and means of egress. Additionally, it appears that the basement, where STR accommodation spaces are planned, was finished without obtaining building permits. The applicant is aware that a building permit and final inspection will be required by Building Code Officials prior to beginning operations.

Condition #7 provides flexibility for the property owner to maintain the residential appearance of their property by not requiring them to create and delineate additional off-street parking spaces. Section 10-3-25(28) of the ZO requires STRs to “provide one parking space for each guest room or accommodation space, or as may be more or less restrictive as conditioned by a special use permit.” With a request to rent one accommodation space within the dwelling for STR, the property would be required to provide one off-street parking space unless conditioned otherwise. It should be acknowledged that in addition to the off-street parking spaces required for the STR, the ZO requires off-street parking spaces for the non-transient dwelling units. The duplex currently has five off-street parking spaces; two for each dwelling unit and one shared parking space with the adjoining dwelling unit. Regardless, staff believes that if the request is approved, the applicant should be provided the flexibility to meet the off-street parking requirements by allowing STR guests to park on the existing driveway without delineating parking spaces

Condition #8 allows PC and CC to recall the SUP for further review if the STR becomes a nuisance.

It should be acknowledged that while the applicants have explained their plans for using this property, the SUP is not restricted to the applicant or operator and transfers to future property owners. If the applicant sold the property, future property owners could operate a STR so long as they meet the conditions for the SUP. How the property could be used by any future property owner should be considered when deciding on SUP conditions.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Approve the special use permit request as submitted;
- (b) Approve the special use permit request with suggested conditions;
- (c) Approve the special use permit with other conditions(s); or
- (d) Deny the special use permit.

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission’s public hearing and twice advertising for City Council’s public hearing. The advertisement was published as shown below:

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Ordinance. The +/- 3,920 sq. ft. property is addressed as 58 Easthampton Court and is identified as tax map parcel 10-M-2A.

In addition, adjoining property owners were notified of the public hearing; the property was posted with signage advertising the request; and a notice was provided on the City's website at <https://www.harrisonburgva.gov/public-hearings>.

Recommendation:

Staff recommends alternative (d) recommend denial.

Attachments:

1. Planning Commission extract.
2. Site maps (2 pages)
3. Application, applicant letter, and supporting documents (4 pages)

Review:

Planning Commission recommended approval (5-1) of the special use permit as presented.